

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Vanessa C. Saenz )  
Map 108-01-0, Parcel 54.00 ) Davidson County  
Commercial Property )  
Tax Year 2007 )

**INITIAL DECISION AND ORDER**

Statement of the Case

An Appeal was filed on behalf of the property owner with the State Board of Equalization on August 31, 2007 for the tax year 2007. The subject property is presently valued as follows, for both tax years:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$115,000	\$92,100	\$207,100	\$82,840

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on November 29, 2007 at the Davidson County Property Assessor's Office. Present at the hearing were Attorney Vanessa Saenz, the taxpayer, Attorney Jenny Hayes, from Metro. Legal and Mr. Derrick T. Hammond, TMA, from the Metro. Property Assessor's Office of Davidson County.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of a commercial tract of property (formerly a single family residence) comprised of 0.55 acres of land commonly known as 2874 Elm Hill Pike in Nashville, Davidson County, Tennessee.

The taxpayer contends that this property should be valued at \$150,000 on her appeal form but stated at the hearing that she can not tell how much the property is worth because she is not an appraiser. Ms. Saenz also stated that it is her belief that the figure the county has "was pulled out of the air". The property, as previously stated, was a single family residence built in 1957 in an area that was re-zoned commercial. The taxpayer uses the property for her law office.

The assessor contends that the property should be valued at \$207,100. Mr. Hammond's exhibit discussed the three standard approaches to value but used the sales comparison approach to support the value that had been established by the Davidson County Board of Equalization.



In the valuation process there are generally three standard customary approaches used to determine an opinion of value, they are (1) sales comparison approach, (2) cost approach and (3) the income capitalization approach.<sup>1</sup> Even though this is commercial property, because of the nature of the type of commercial property,<sup>2</sup> it is the sales comparison approach that is probably the better method to use to determine an accurate opinion of value.

It should be remembered that each case rises or fails on its own facts, and while the analytical evaluation of the evidence may be similar, the specific nuances of an appeal determine how a decision will be made and how an order will be written.

The germane issue is the fair market value of the property as of January 1, 2007. The basis of valuation as stated in T.C.A. § 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . . ."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition **of market value for ad valorem tax purposes** is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 2 1-22. (emphasis supplied) *Gap Inc.*, (Sumner Co., Tax Year 2006), page 2.

Since the taxpayer is appealing from a determination by the Davidson County Board of Equalization the burden of proof in this matter falls on the taxpayer. *Big Fork Mining Company v. Tennessee Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981) and Rule 0600-1-.11(1) State Board of Equalization.

<sup>1</sup> The Appraisal of Real Estate, 12<sup>th</sup> Edition, Chapter 4 (pp 49-65) © 2001

<sup>2</sup> This is a former family residence of 1800 square feet reconfigured to make it office space for a lawyers' office.



After having reviewed all the evidence in the case, the administrative judge finds that the subject property should remain valued at \$207,100 based upon the presumption of correctness attaching to the decision of the Davidson County Board of Equalization and failure of the taxpayer to prove by the preponderance of evidence that she is entitled to the requested relief.<sup>3</sup> The administrative judge finds that the taxpayer simply introduced insufficient evidence to substantiate her contention of value for the tax year appealed even with her late filed exhibit.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$115,000	\$92,100	\$207,100	\$82,840

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

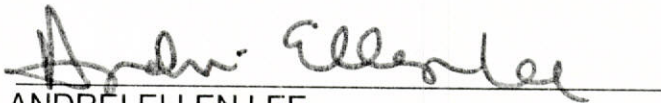
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

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<sup>3</sup> Uniform Rules of Procedure for Hearing Contested Cases, Rule 1360-4-1-.02 (7)

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 18<sup>th</sup> day of January, 2008.

A handwritten signature in dark ink, appearing to read "Andrei Ellen Lee", is written over a horizontal line.

ANDREI ELLEN LEE  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Vanessa Saenz, Esq.  
Jenny Hayes, Esq.  
Jo Ann North, Property Assessor